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February 1, 2008

AZ CORP COMMISSION
DOCKET CONTROL

Via FedEx Overnight Mail

Arizona Corporation Commission
Docket Control – Utilities Division
1200 West Washington Street
Phoenix, AZ 85007

Re: In the Matter of the Investigation of the Cost of Telecommunications Access
Docket No. T-00000D-00-0672, and
In the Matter of the Review and Possible Revision of Arizona Universal Service
Fund Rules, Article 12 of the Arizona Administrative Code
Docket No. RT-00000H-97-0137

Dear Sir/Madam:

Enclosed for filing is an original and 15 copies of the Reply Comments of
Eschelon Telecom of Arizona, Inc., Mountain Telecommunications, Inc. and Electric
Lightwave, LLC in connection with the above-referenced dockets.

Sincerely,



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Arizona Corporation Commission
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cc: Parties of Record (U.S. Mail)

BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

MIKE GLEASON - CHAIRMAN
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTEN K. MAYES
GARY PIERCE

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AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE REVIEW AND)
POSSIBLE REVISION OF ARIZONA)
UNIVERSAL SERVICE FUND RULES,)
ARTICLE 12 OF THE ARIZONA)
ADMINISTRATIVE CODE.)

DOCKET NO. RT-00000H-97-0137

IN THE MATTER OF THE INVESTIGATION OF)
THE COST OF TELECOMMUNICATIONS)
ACCESS)

DOCKET NO. T-00000D-00-0672

CERTIFICATE OF SERVICE

I hereby certify that an original and 15 copies of the attached Reply Comments of Eschelon Telecom of Arizona, Inc., Mountain Telecommunications, Inc. and Electric Lightwave, LLC was filed on February 1, 2008, via FedEx Overnight Express Mail with:

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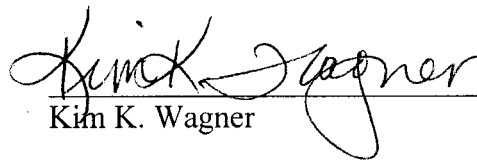
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Dated: February 1, 2008



Kim K. Wagner

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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WILLIAM A. MUNDELL DOCKET CONTROL
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IN THE MATTER OF THE INVESTIGATION OF)
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ACCESS)

DOCKET NO. T-00000D-00-0672

REPLY COMMENTS OF ESCHELON TELECOM OF ARIZONA, INC., MOUNTAIN TELECOMMUNICATIONS, INC. AND ELECTRIC LIGHTWAVE, LLC.

Introduction

Eschelon Telecom of Arizona, Inc., (Eschelon), Mountain Telecommunications, Inc. (MTI) and Electric Lightwave, LLC, (ELI), (collectively, "the Joint Carriers") submit the following Reply to the comments filed by others with Arizona Corporation Commission, in compliance with the Procedural Orders issued on September 19, 2007 and November 30, 2007, in these Dockets. In general, the initial comments of the other carriers on the issue of access charges tended to follow two main themes. For the incumbent local exchange carriers—ALECA and Qwest—the theme was that it was okay to reduce access charges as long as those ILECs are guaranteed the ability to make up the

reductions from USF funds. For the interexchange carriers (IXCs) the theme was that access charges should be reduced as quickly as possible—with no promise of any benefit to consumers, no examination of its effects on local service in Arizona and no regard for due process or the Arizona Constitution.

A. The Need for Access Reform Has Not Been Demonstrated

Several of the comments urge this Commission to reduce intrastate access charges by an arbitrary amount in the name of competition and economic theory. However, they immediately follow this statement of principle with the caveat that it should only take place if they are able to recoup the revenue lost by such reductions through the AUSF. The Joint Carriers would note that it is easy to be cavalier about access charge reductions if you are guaranteed that such a reduction will be “revenue neutral”. In fact, it’s clear that the ILECs only support access charge reductions if they don’t stand to lose anything.

As many of the comments recognize, switched access charges are a diminishing issue due to the presence of other alternatives. In fact, some argue that it is in the best interest of the CLECs to reduce access rates, for the very reason that access minutes are diminishing. AT&T proclaims loudly that there is some urgent need to reduce intrastate access charges to interstate levels and points out some extreme examples of high intrastate access charges in an attempt to smear all access providers with a broad brush. However, despite this concern, AT&T has not seen fit to file a complaint with the Commission about these rates. It is ironic that now, when the importance of access charges is on the wane, some want the Commission and parties to embark upon a potentially expensive and time-consuming quest to determine the “correct” switched access rates.

For example, AT&T without citing a single factual basis states that existing access charges include “large implicit subsidies that inflate some carriers’ intrastate switched access charges.” AT&T at 2. As an example they cite a carrier whose intrastate access charges are more than 18.4 cents per minute. AT&T does not explain how one would determine if the rate does or does not include a large implicit subsidy. Apparently, it simply knows one when it sees one.

AT&T also claims that these implicit subsidies cause long-distance services to be over-priced. This at a time when many carriers are offering unlimited long-distance calling at a flat rate and when virtually no one is complaining about the cost of long-distance service. It should also be noted that the IXC’s makes no promises about reducing intrastate long-distance rates in Arizona should access rates be reduced. The fact is that Arizona consumers will see little if any effect if access rates are reduced except that local competition will suffer and local rates will increase. The Commission should ask itself if there is good reason to embark upon a quest that, if those supporting it get their way, is likely to increase local rates, reduce local competition, make no appreciable difference in long-distance rates and make IXC’s richer.

B. The Comments Demonstrate Why CLECs Access Rates Should Not Be Considered in This Proceeding.

The differences between rural ILECs and CLECs require that their rates be set in separate proceedings. As ALECA points out, interstate access revenues have been substantially reduced over the last several years, reciprocal compensation rates have been limited by the FCC, and the ever increasing volume of wireless calls are not subject to access charges. This underscores the financial squeeze that CLECs find themselves in, as various historical sources of revenue are diminishing. But while the rural ILECs are

subject to these same pressures they are able to blithely recommend access reductions. How can they do this? Because there is a catch and a significant one—that the access reform be “revenue neutral”. In other words, the rural ILECS support for access reductions is contingent on a dollar-for-dollar reimbursement from the AUSF. CLECs have no such assurances.

The ILEC’s proposal makes several unproven assumptions: 1. It assumes that the current access charges exactly equal the cost of providing basic local exchange service in rural Arizona; 2. It assumes that the existing rates of rural ILECs do not cover the cost of providing service; and 3. It assumes that the AUSF funds would not be used to pay for other, non-regulated ventures by the rural ILECs. Not surprisingly, ALCEA does not want an inquiry into implicit subsidies. This would require them to demonstrate the cost basis for their rates and determine to what extent a subsidy actually exists instead of assuming a dollar for dollar match.

The revenue neutral route is not available to CLECs, who, unlike the ILECs do not have any monopoly customers or AUSF funds to make up the difference. The result will be increased costs to local consumers or decreased competitive options.

AT&T cites some states that have adopted interstate access rates as benchmark for intrastate rates. A couple of distinctions should be noted about those examples. First, in every example but one cited by AT&T, the Commission reduced access rates because it was required and authorized to do so by state law. Thus, these were not fact-based policy choices by the state commission but mandates of the state legislature. There is no such mandate in Arizona and the Commission is not authorized to make such a rate decision unless based upon the facts as applied to each company. It should also be noted that in at

least one instance state law mandated that reductions made to access charges had to be passed on to the customers of interexchange carriers. Application No. NUSF-1, Progression Order No. 4, implementing section 75-609(3) of the Nebraska Revised Statutes. Feb. 8, 2000.

The parties advocating the imposition of interstate rates or Qwest rates on CLECs would apparently have the Commission do this without any evidence as to what costs are incurred or if the costs differ between carriers. This approach ignores several issues regarding CLECs that separate them from ILECs. First, CLECs do not have monopoly customers on whom they can impose higher rates, which they can in turn collect through the USF, in order to make access charge reductions revenue-neutral. Second, facilities-based CLECs are still moving toward making full use of their capacity and therefore toward average minimum costs. Long established companies like Qwest and the rural ILECs have low average costs per minute and have had a long time to collect high access rates to obtain a return on their investment. CLECs do not have the economies of scale and scope that Qwest has and so will have higher costs. CLECs have, on average, longer loops and lower density than Qwest.

The determination of appropriate access rates for rural ILECs and CLECs is fundamentally different and they should be addressed in separate proceedings. Because the extremely high rates complained of are those of rural ILECs, and because of the tie-in of those rates to AUSF, the ILEC rates should be examined first.

C. The Commission Can Not Order a Change in Access Rates Without a Cost Determination.

Contrary to the assumption made in several of the comments, the Commission cannot summarily order the reduction of access rates. The Commission has a duty under

the Arizona constitution to determine fair value in connection with an order setting rates and charges. See *US West Communications, Inc. v. Arizona Corp. Comm'n*, 34 P.3d 351,353 (2001). Despite the Constitutional mandate, several comments suggest that the Commission can change access rates by fiat, rather than engaging in “the time-consuming, anachronistic process of trying to evaluate each carrier’s “cost” of providing service.” Verizon Comments at 4. Verizon suggests simply setting all carriers’ rates at Qwest levels since, according to Verizon, the Commission has “already found these rates to be reasonable.” Id at 4. Apparently, there is no room for the idea that Qwest’s costs may differ from that of the CLECs. Some even suggest that all CLECs and small ILECS should have their intrastate rates reduced to the interstate level, which is lower than the rates set for Qwest by this Commission and that this should simply be done with no showing of its basis or reasonableness. This is clearly unwise, unreasonable and can not be done without a cost determination.

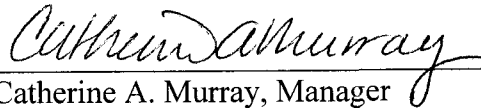
Comments suggest that the Constitutional mandate does not apply in a “competitive” market and, therefore, the Commission could somehow get around the need to make a carrier-specific evaluation of the reasonableness of rates, citing the Court’s opinion in *US West Communications, Inc. v. Arizona Corp. Comm'n*, 34 P.3d 351 (2001). However, in that case, while the Arizona Supreme Court acknowledged that the extent of fair value, rate-of-return analysis required under the Constitution may vary depending upon the extent of competition, it also stated: “We do not hold that a fair value determination should play *no* role in the establishment of rates, or that it can simply be ignored.” Id at 354. In fact, the Court found that “...where a monopoly exists, the rate-of-return method is proper.” Id. At 354. The IXCs are quick to point out, to justify

Commission action on access charges, that local carriers have a monopoly on switched access to their local customers. That being the case, their rates can be changed only after a fair value determination.

Conclusion

The Commission should take no action at this time on access charges, at least for CLECs. If rural ILECs or other carriers are prepared to proceed with such reductions they can do so at any time, with or without this proceeding. However, CLECs should not be forced into such a position, especially in the absence of a determination that their costs would be recovered after any change. There is simply no pressing need to go through such a process at this time.

Respectfully submitted,



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